

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TONY SKANNELL,

Defendant.

8:02CR353

MEMORANDUM AND ORDER

This matter is before the Court on the Defendant's Motion for Sentence Reduction under the First Step Act, ECF No. 878. The Fair Sentencing Act of 2010, Pub. L. No. 111-220, 124 Stat. 2372 (2010), effective August 3, 2010, reduced the penalties for certain crack cocaine offenses. The First Step Act, at § 404, permits but does not require sentencing judges to apply the Fair Sentencing Act to sentences imposed prior to August 3, 2010.

In *United States v. McDonald*, 944 F.3d 769, 772 (8th Cir. 2019), the Court of Appeals noted that a court considering a motion for a reduced sentence under § 404 of the First Step Act first must decide whether the defendant is eligible for relief, and then must decide, in its discretion, whether to grant a reduction.

The Probation Office submitted a 2nd Revised 2019 First Step Act Retroactive Sentencing Worksheet, ECF No. 905, in which that Office concluded that the First Step Act, Pub. L. No. 115-391, 132 Stat. 5194 (2018), caused the Defendant's mandatory

minimum term of imprisonment to be reduced to five years, and his range of imprisonment under the U.S. Sentencing Guidelines reduced to 262 to 327 months.¹

The Defendant is eligible for a reduced sentence under the First Step Act, because his sentence of 360 months incarceration exceeds the statutory mandatory minimum term for his offense, as well as the newly calculated Guideline range. Although the Defendant's criminal history is extensive and violent, his conduct during his lengthy term of incarceration does not give rise to additional public-safety concerns. The Court concludes that a sentence at the low end of the newly calculated Guideline range satisfies all the statutory sentencing objectives for the underlying offense.

IT IS ORDERED:

1. The Defendant's Motion for Sentence Reduction under First Step Act, ECF No. 878, is granted;
2. The Defendant's term of incarceration will be reduced from 360 months to 262 months;
3. All other provisions in the original Judgment and Commitment Order will remain unchanged; and
4. A new Judgment and Commitment Order will be issued

Dated this 25th day of March 2020.

BY THE COURT:

s/Laurie Smith Camp
Senior United States District Judge

¹ In the Court's Tentative Findings, ECF No. 440, Page ID 2428, the Court determined that the Government's Information of Prior Conviction was not timely filed and that no enhancement pursuant to 21 U.S.C. § 851 would be applied. Any references to such an enhancement in subsequent order were in error.